

## KDADS STANDARD POLICY

<b>Policy Name:</b>	Personal Care Services	<b>Policy Number:</b>	
<b>Division:</b>	Home and Community Based Services (HCBS)	<b>Date Established:</b>	8/1/2015
<b>Applicability:</b>	All HCBS Programs (Excluding SED)	<b>Date Last Revised:</b>	10/13/15
<b>Contact:</b>	HCBS Programs	<b>Date Effective:</b>	10/15/15
<b>Policy Location:</b>	<a href="https://www.kdads.ks.gov/commissions/csp/home-community-based-services-(hcbs)/hcbs-policies">https://www.kdads.ks.gov/commissions/csp/home-community-based-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	10/14/15
<b>Status/Date:</b>	Final/October 13, 2015	<b>Number of Pages:</b>	5

### Summary

This policy is designed to provide clarification of the regulations and limitations for reimbursement of personal care services (PCS) for all Home and Community Based Services (HCBS) waiver populations. The term PCS has been standardized across the HCBS waiver populations and will replace all previous terms for this service and/or worker. Previous terms that have been replaced include Personal Services, Personal Care Attendant, Personal Assistant Services, Attendant Worker, Direct Services Worker, Supportive Home Care, and Attendant Care Services. For complete description of personal care services, please visit the appropriate program waiver application available at [https://www.kdads.ks.gov/commissions/csp/home-community-based-services-\(hcbs\)](https://www.kdads.ks.gov/commissions/csp/home-community-based-services-(hcbs)).

### ENTITIES AFFECTED BY THIS POLICY

- Participants
- HCBS Providers
- Managed Care Organizations (MCOs)

### Policy

#### I. General

1. Personal Care Services (PCS) are designed to provide assistance to elderly and disabled participants in their home and community settings that comply with the HCBS Settings Final Rule. PCS focuses on assistance with Activities of Daily Living (ADLs) such as bathing, grooming, toileting, transferring, and eating and Instrumental Activities of Daily Living (IADLs) such as shopping, laundry, housekeeping, lawn care, meal preparation.
2. Participants authorized for PCS services have the option to agency-direct or self-direct their services.
3. PCS are provided and reimbursed based on the assessed needs of the participant. The participant's needs are assessed by the selected Managed Care Organization (MCO) and identified on the Integrated Service Plan of Care (ISPOC). The ISPOC must document the participant's authorized service hours and selected provider.

4. A participant may receive PCS in the participant's place of employment if the participant requires a need for assistance in the work environment. The participant's need for assistance in a work environment must be noted in the ISPOC. PCS services provided in a work environment cannot be duplicative of other waiver services such as supported employment.
5. For minor participants, it is the parents' responsibility to complete the required parent fee documentation and share the cost of services for the minor child (younger than 18) if a parent fee is determined by the state.
  - a. The PCS is responsible for supporting the participant in accessing medical services and completing normal daily ADL and IADL activities.
  - b. PCS providers are required to document time/attendance via the AuthentiCare® Kansas system. In limited circumstances, an accommodation to the use of the EVV system may be approved by KDADS. Refer to Use of EVV Policy.
6. The names of the following services are now referred to as personal care services but maintains the same billing code and rate identified for each HCBS Program:

<b>HCBS Program</b>	<b>Service Name</b>
a. Frail Elderly	Attendant Care Level I Attendant Care Level II Attendant Care Level III Attendant Care (Self-Direct)
b. Intellectual/Developmental Disabilities	Supportive Home Care Personal Assistive Services
c. Physical Disability	Personal Services/Agency-Directed Personal Services/Self-Directed
d. Technology Assisted	LCCA – PSA
e. Traumatic Brain Injury	Personal Services/Agency-Directed Personal Services/Self-Directed

## **II. Limitations to PCS**

1. Specific to the FE and IDD waiver programs, PCS can be provided up to 12 hours per 24 hour day and reimbursed based on the assessed needs of the participant. Request for accommodation to exceed the service limit is subject MCO authorization.
2. Specific to the PD and TBI program, consistent with the approved waivers, PCS can be provided up to 10 hours per 24-hour day. The need to exceed the maximum service limit is subject to approval by the participant's MCO. An accommodation may be authorized by the MCO up to 12 hours per 24-hour day based on assessed needs.
3. The MCO may authorize services exceeding the 12 hours per 24-hour day accommodation if the participant meets one or more of the following criteria:
  - a. The additional request for PCS is critical to the remediation of the participant's abuse, neglect, exploitation, or domestic violence issue.
  - b. The additional request for PCS is critical to the participant's ability to remain in the community in lieu of an institution.

- c. The time additional request for PCS is a necessary support in order for the participant to remain in the community within the first three months of his/her return to the community from a prolonged stay (greater than 90 days) in an institution.
4. PCS services may be authorized for the purpose of meal preparation by MCO based on assessed needs. Authorization for meal preparation cannot duplicate similar services authorized through HCBS (such as home-delivered meals) or any other funding source (such as Older Americans Act), if available.
5. If accessing medication reminder services, PCS will not be authorized for medication management.
6. When an individual elects hospice care, PCS services cannot duplicate services provided under hospice. Concurrent care is subject to approval and review by the managed care health plan and must not be duplicative.
7. A guardian, conservator or activated durable power of attorney is not permitted to provide PCS unless conflict of interest has been mitigated.
  - a. Refer to the KDADS Conflict of Interest Policy for additional information regarding appointing a designated representative. The MCO is responsible for collecting required documentation the conflict of interest has been mitigated.
  - b. A participant's spouse, guardian, conservator, person authorized as an activated Durable Power of Attorney (DPOA) for health care decisions, or an individual acting on behalf of a consumer shall not be paid to provide personal care for the consumer, except in limited circumstances as specified under the Conflict of Interest Policy. If the designation of the appointed representative (guardian, conservator, activated DPOA for health care or an individual acting on behalf) is withdrawn, the individual may become the consumer's paid direct support worker after the next annual review or a significant change in the consumer's needs occurs prompting a reassessment.
8. Specific to IDD and TA participants and in accordance with K.A.R. 30-5-7, an adult participant's spouse or a minor participant's parent cannot be reimbursed.
9. If available, a participant or parent/legal guardian may select to self-direct PCS. If a participant or legal guardian no longer wants to self-direct his or her PCS, then the participant or legal guardian will have the option to transition to agency-directed PCS without penalty.
10. A participant will not be provided PCS for activities or tasks that an in-home family or informal support would normally provide to the household unless there are extenuating circumstances. In accordance with this expectation, a capable person will not be authorized for a task (such as lawn care, snow removal, shopping, or meal preparation) the in-home family or informal support would normally complete for themselves. The list of potentially restricted tasks above is not exhaustive.
  - a. An individual meeting the capable person definition may be approved to provide PCS if the IADL activity or task exceeds what the person would normally perform for the household. For example, PCS may be authorized if an individual must prepare a specialized diet due to dietary needs of the participant.
  - b. The selected MCO may also authorize PCS if the family member or informal support refuses to complete the PCS tasks for the participant. In this situation, the family member or informal support will not be paid for PCS and the MCO must assist the participant with obtaining a PCS Worker.

- c. PCS will not be reimbursed for any period of time that a participant is admitted to an inpatient or residential hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities or institution for mental disease. PCS will not be reimbursed while a participant is in an institution for temporary stay.

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## Contact Information

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### HCBS Programs

**Email:** [HCBS-ks@kdads.ks.gov](mailto:HCBS-ks@kdads.ks.gov)

**Phone:** 785-296-4986

**Fax:** 785-296-0256

**503 S. Kansas Ave**

**Topeka, Kansas 66603**

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## Authority

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### Application for 1915(c) HCBS Waiver – Appendix C: Personal Care

KS.0224.R05.00 (IDD) – effective July 1, 2014

KS.0304.R04.00 (PD) – effective January 1, 2015

KS.4164.R05.00 (TBI) – effective July 1, 2014

KS.0303.R04.00 (FE) – effective January 1, 2015

KS.0476.R02.00 (Autism) – effective January 1, 2016

KS.4165.R05.01 – effective January 1, 2014

### Federal Authority

42 CFR §441.301(c)(4)(5): HCBS Setting Final Rule

42 CFR §441.12, §440.167 – Personal Care Services

State Medicaid Manual §4442.3B – Legally Responsible Relatives

IRS 1.25.1.2.2 – Limited Practice Based on Relationship to the Taxpayer: Family Member

### State Authority

K.S.A. 39-7,100 – Home and Community Based Services Program

K.S.A. 65-5115 – Home Health Aide Requirements

2015 Senate bill No. 112 at Sec. 108 (n) - Parent Fee Program

K.A.R. 28-51-113 – Home Health Aide Training

K.A.R. 26-41-101 – Assisted Living/Residential Health Care (ALF/RHC) Facilities

K.A.R. 26-42-101 – Homes Plus

K.A.R. 30-5-307 – Non-Supplementation of HCBS

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## Definitions


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1. Activities of Daily Living (ADL): basic functional activities necessary on a daily basis to allow an individual to live in a safe and healthy environment. Examples of these activities include bathing, dressing, grooming, toileting, maintaining continence, eating, mobility, and transferring (such as moving from a bed to wheelchair).
2. Capable Person: A Capable Person is a person who lives at the same physical address as the member, who has significant relationship with the member, or who is willing and able to provide informal supports in Instrumental Activities of Daily Living. A Capable Person can include, but is not limited to, a spouse, parent, child, significant other, friend, roommate, or a member of a church or community group.
3. Immediate Family Members - As defined by IRS, a spouse, child, parent, grandparent, brother, sister, grandchild, step-parent, step-child, step-brother or step-sister of the individual in the military.



4. Home - a location in which a participant makes his or her residence that cannot be defined as institutional in nature. For HCBS, the home and community settings of the participant must comply with the HCBS Setting Final Rule. See HCBS Setting Final Rule Transition Plan for more information.
5. Informal Support- any person who provides some services or support without compensation from an HCBS Program. An informal support may include a legally responsible person, immediate family member, or capable person who lives in the same home as the participant or community member.
6. Instrumental Activities of Daily Living (IADL) - Activities necessary on an indirect basis, not directly related to functional skills, to ensure that the individual can continue to live in a safe and healthy environment. Examples of these activities include but not limited to meal preparation, shopping, laundry, housekeeping, lawn care, snow removal, money management, and medication management.
7. Integrated Service Plan of Care (ISPOC) - This term replaces the Plan of Care that details the services a participant needs and wants and the provision of these services. The ISPOC is developed by the, participant, the participant's support team, and the managed care organization's Care Coordinator.
8. Legally Responsible Person: A legally responsible person shall not be paid to provide PCS. 42 Code of Federal Regulations (CFR) §440.167 prohibits federal financial participation (FFP) for payments to legally responsible individuals for the provision of State plan PCS. This prohibition is based on the presumption that legally responsible individuals may not be paid for supports that they are ordinarily obligated to provide. Generally, payment may not be made to a legally responsible individual for the provision of personal care or similar services that the legally responsible individual would ordinarily perform or be responsible to perform on behalf of a waiver participant. However, a legally responsible individual (typically parent of a minor child or a spouse) may be paid to provide services under extraordinary care provisions.
9. Participant- person determined to be eligible for Medicaid-funded home and community-based waiver services.
10. Self-direction- participants exercise employer authority over some or all of the home and community-based services they need to live in their community and accept the responsibility for taking a direct role in managing these services. Within the participant-directed model and Kansas state law, participants employ director workers and "make decisions about and direct the provisions of services which includes, but not limited to selecting, training, managing, paying and dismissing of a direct service worker." (K.S.A. 39-7,100)


Approved by:

  
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Home & Community Based Services Director

10/15/15  
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Date

  
\_\_\_\_\_  
Community Services and Programs Commissioner

10/15/15  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
KDADS Legal Chief Counsel

10/16/15  
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Date